

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

FILED BY *[Signature]* D.C.  
05 SEP 12 PM 4:48

MONICA JOHNSON, Surviving Spouse,  
on her own behalf, and on behalf of XAVIER  
J. JOHNSON, JR., a minor, as mother,  
next friend and natural guardian, as next kin  
of XAVIER JOHNSON, deceased;

*THOMAS M. GOULD*  
CLERK, U.S. DISTRICT COURT  
WD OF TN, MEMPHIS

Plaintiffs

vs.

CASE NO. 04-2374-Ma/P

CITY OF MEMPHIS, KENNETH ADAMS,  
individually and in his official capacity  
as a police officer of the City of Memphis, and  
MICHEAL G. DERRICK as Administrator ad  
Litem of Melvin Rice, deceased, as said  
decedent acted in his individual capacity and  
as police officer of the City of Memphis;

Defendants

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CONSENT ORDER GRANTING MOTION FOR PARTIAL DISMISSAL OF PLAINTIFFS'  
SECOND AMENDED COMPLAINT BY DEFENDANTS, OFFICERS KENNETH ADAMS  
AND MELVIN RICE, DECEDEDENT

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The Plaintiffs filed their original Complaint on May 18, 2004, alleging that the Officers violated 42 U.S.C. §1983 by depriving Decedent, Mr. Xavier J. Johnson, of his rights under the Fourth, Fifth, Fourteenth and Fifteenth Amendments to the Constitution. Plaintiffs allege that these violations occurred when the Officers responded to a "911" call at Decedent's address, and that the Officers shot Decedent during this incident, resulting in his death. The Officers filed a Motion for Partial Dismissal on August 31, 2004. In an Order entered December 28, 2004, the Court granted the Officers' Motion, dismissing Plaintiffs' claims under 42 U.S.C. §1983 to the extent they alleged

violations of the Fifth, Fourteenth and Fifteenth Amendments. Plaintiffs filed their Second Amended Complaint on June 29, 2005, in which they raised §1983 claims under the Fifth and Fourteenth Amendments to the Constitution. The Officers filed another Motion for Partial Dismissal of Plaintiffs' Second Amended Complaint, seeking to dismiss the Plaintiffs' §1983 claims under the Fifth and Fourteenth Amendments.

By consent of the parties, for good cause shown, and for the reasons set forth in the Court's December 28, 2004 Order Granting Motion for Partial Dismissal by Defendants Officers Kenneth Adams and Melvin Rice, the Plaintiff's §1983 claims against Defendants Adams and Rice are DISMISSED to the extent they allege violations of the Fifth and Fourteenth Amendments.

So ordered this 9th day of September 2005.



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SAMUEL H. MAYS, JR.  
UNITED STATES DISTRICT JUDGE

Approved for entry:



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JAVIER M. BAILEY, No. 14186  
Attorneys for Plaintiffs

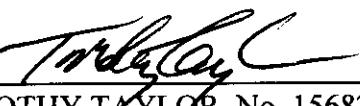
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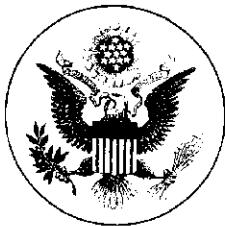
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## Notice of Distribution

This notice confirms a copy of the document docketed as number 46 in case 2:04-CV-02374 was distributed by fax, mail, or direct printing on September 14, 2005 to the parties listed.

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Honorable Samuel Mays  
US DISTRICT COURT